

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

JAMES HAYDEN,

Plaintiff,

v.

2K GAMES, INC. and TAKE-TWO  
INTERACTIVE SOFTWARE, INC. ,

Defendants.

CASE NO. 1:17-cv-02635-CAB

**DEFENDANTS 2K GAMES, INC. AND TAKE-TWO INTERACTIVE  
SOFTWARE, INC.'S MOTION FOR SUMMARY JUDGMENT**

Defendants Take-Two Interactive Software, Inc. and 2K Games, Inc. (collectively, “Take-Two”) respectfully move this Court for an order pursuant to Federal Rule of Civil Procedure 56 granting Take-Two summary judgment on Plaintiff James Hayden’s (“Plaintiff”) claim of direct and indirect copyright infringement (Count I and Count II) because (1) Take-Two’s use of the tattoos at issue is a fair use, (2) Take-Two was authorized to use the tattoos, (3) Take-Two’s use of the tattoos is *de minimis*, and (4) Take-Two’s video game is not substantially similar to two of the tattoos that are covered in the game. In addition, Take-Two moves for summary judgment that Plaintiff is not entitled to statutory damages or attorney’s fees pursuant to 17 U.S.C. § 412.

The Court should grant summary judgment on each of those grounds because there is no genuine issue of material fact on those issues, and Take-Two is entitled to judgment as a matter of law.

Dated: October 25, 2021

/s/ Dale M. Cendali

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